

The vote was then taken upon laying the bill and amendments upon the table, and carried in the affirmative.

On motion, the House adjourned until half-past 9 o'clock A. M., to-morrow.

AUSTIN, Thursday, January 27, 1853.

House met pursuant to adjournment—roll called—quorum present.

Absentees: Messrs. Bee, Bryan of B., Bryan of C., Edwards, Howard, Johnson, Pollock, Stapp, Throckmorton.

Journal of yesterday read and adopted.

PETITIONS.

Mr. Neal presented the petition of James W. Bryne, attorney for Sumpter Turner, praying the issuance of certain duplicate land scrip; referred to the committee on the Landoffice.

REPORTS OF COMMITTEES.

The committee on the Judiciary made the following report:

COMMITTEE ROOM, January 26, 1853.

Hon. DAVID C. DICKSON,

Speaker of the House of Representatives:

The committee on the Judiciary, to whom was referred a joint resolution to amend the Constitution for the purpose of calling a convention, have had the same under consideration, and have instructed the undersigned to report the same back to the House, with amendments, and recommend its passage.

The committee have not acted hastily; nor have they been controlled by a spirit of innovation; nor have they failed to appreciate the full measure of the importance of the question under consideration. Although the joint resolution merely proposes to submit to the people, in a manner provided for by the organic law of the land, the decision of a question which they have expressly reserved to themselves, yet the committee have abated nothing, on that account, from the reflection which the occasion called for.

It was found that various and numerous propositions of amendment, of greater or less import, some of vital necessity, had been made. It could not be denied that the condition of Texas had undergone unprecedented changes since the adoption of the present Constitution; changes which, for more

than the diurnal revolutions of the earth, have to do with the development of national resources and the stability of written Constitutions. The question immediately arose: Ought we to endeavor to prepare and submit to the people the necessary and proper amendments? In answer to this question, it occurred to the committee that the labor and deliberation necessary, in order to act wisely in either adopting or rejecting propositions of amendment, could not be bestowed at an extraordinary session of a few weeks' duration, while other matters more legitimately within the purpose of our election, were demanding attention. The question recurred: Could the subject not be left over for the next Legislature? This would involve a postponement of three years, or the infraction of the Constitution by an informal call of a Convention—a consequence by no means unlikely to follow the failure of the Legislature to make some provision upon the subject at the present session.

The committee deemed it unnecessary to discuss the defects which have been alleged, and the corresponding amendments proposed. It would not have convinced them that the call of a Convention is inexpedient, merely because their first impressions or maturer views formed from any deliberation which they have now opportunity to give to the subject, were against the proposed changes. Least of all could they permit their inability to decide for or against such changes, to have such an effect. The question of a Convention or not? ought not, in the opinion of the committee, to be determined by any such superficial appeal. It would not, however, have been a difficult matter for the committee to have suggested many important and necessary changes, as will be proved within the next three years, whether a Convention be called or not. Among the amendments, admitted on all sides to be imperiously demanded, is an amendment of the only provision which has been added to the Constitution by amendment by the Legislature. This, of itself, is enough to cause distrust in that mode of amendment.

The committee is aware that it is an easy matter to characterize any change with opprobrious epithets, and to talk of the reckless spirit of innovation; but they are also aware that the inventive and progressive spirit of the age has, within the last year or two, supplied an equally potential word of abuse for those who oppose judicious change.

So many proposed amendments, conspiring with a prevalent opinion that the constitution is wholly unsuited to the present condition of the country, seem to the committee to demand

the creation of a tribunal competent both by credentials and wisdom, to investigate whether or not the complaints are well founded, and either to prepare and recommend the necessary changes, or to refute the allegations of their necessity. In either event, the object will have been accomplished.

All of which is respectfully submitted.

O. C. HARTLEY,
One of the committee.

AMENDMENTS.

1.—In second section after "Galveston," in the 11th line, insert "Cameron." In same section, 37th line, strike out "Cameron," and strike out "two" and insert "one."

2.—In same section, 9th line, after "Fort Bend," insert "Polk, Newton, Sabine, Jasper." Same section, strike out the 21st, 22d, and 23d lines. Same section, 35th line, strike out "Polk" and insert "Angelina."

3.—Add to end of 2d section, "And in all cases where a district is composed of more than one county, the chief justice of the county first named shall be the returning officer for the district."

Report and bill received to come up in their order.

JOINT RESOLUTION,

To amend the Constitution for the purpose of calling a Convention.

SECTION 1. Be it resolved by the Legislature of the State of Texas, That the Constitution of this State shall be so amended as to provide for the calling of a Convention to frame a new Constitution.

SEC. 2. The delegates to said Convention shall be apportioned among the several counties of the State as follows: Red River, Bowie, Lamar, Hopkins, Fannin, Hunt, Collin, Grayson, Dallas, Upshur, Cass, Titus, Houston, Panola, San Augustine, Liberty, Tyler, Montgomery, Walker, Grimes, Madison, Leon, Burleson, Navarro, Williamson, Colorado, Fayette, Bastrop, Victoria, Lavaca, Gonzales, Guadalupe, Caldwell, Webb, Gillespie, Brazoria, Fort Bend and Austin shall each elect one delegate;

Smith, Anderson, Nacogdoches, Shelby, Galveston and Harris shall each elect two delegates;

Washington and Harrison shall each elect three delegates;

Cherokee, Rusk and Bexar shall each elect four delegates;

Red River and Lamar shall elect one delegate;

Fannin and Hopkins shall elect one delegate;
 Denton and Cooke shall elect one delegate;
 Kaufman and Henderson shall elect one delegate.
 Tarrant and Ellis shall elect one delegate;
 Wood and Van Zandt shall elect one delegate;
 Cass and Titus shall elect one delegate;
 Harrison and Upshur shall elect one delegate;
 Angelina and Newton shall elect one delegate;
 Sabine and Jasper shall elect one delegate;
 Angelina, Newton, Sabine and Jasper shall elect one delegate;
 Jefferson and Orange shall elect one delegate;
 Polk and Trinity shall elect one delegate;
 Robertson and Brazos shall elect one delegate;
 Freestone and Limestone shall elect one delegate;
 McLennan and Falls shall elect one delegate;
 Bell and Milam shall elect one delegate;
 Matagorda and Wharton shall elect one delegate;
 Travis and Burnett shall elect two delegates;
 Austin, Fayette, Travis and Burnett shall elect one delegate;
 Calhoun and Jackson shall elect one delegate;
 Goliad and De Witt shall elect one delegate;
 Comal and Hays shall elect one delegate;
 Cameron and Hidalgo shall elect two delegates;
 Starr and Nueces shall elect one delegate;
 Starr, Nueces, San Patricio, Refugio and Kinney shall elect one delegate;
 Bexar, Uvalde, Medina, El Paso and Presidio shall elect one delegate;
 El Paso and Presidio shall elect one delegate.

SEC. 3. The qualification of the electors, and the mode of election and return of the delegates, shall be the same as are provided for the election and return of members of the Legislature.

SEC. 4. The convention shall assemble at the seat of government, at such time as the Legislature shall appoint.

SEC. 5. The Constitution which shall be framed by said Convention, shall be submitted to the people for their approval, at a time to be appointed by the Convention; and if a majority of all the votes polled shall be in favor of its adoption, it shall go into effect at the time and in the manner to be prescribed therein; but in case a majority of the votes polled shall not be in favor of its adoption, then it shall go for naught.

SEC. 6. In case the Constitution which shall be framed by

said Convention shall not be adopted, any subsequent Legislature may, by a vote of two-thirds of each House, call a similar Convention, the delegates to which shall be apportioned by the Legislature calling the same.

SEC. 7. This proposed amendment shall be duly published and submitted to a vote of the people at the next general election of Representatives, in accordance with the provisions of the thirty-seventh section of the seventh article of the Constitution.

The minority of the committee on the Judiciary made the following report :

COMMITTEE ROOM, January 27, 1853.

Hon. D. C. DICKSON,

Speaker of the House of Representatives :

The undersigned, members of the committee on the Judiciary, respectfully make this report, dissenting from the report which a majority of said committee finally instructed the chairman to make, relative to a joint resolution acted upon by the committee, proposing the call of a Convention for the purpose of framing a new Constitution for this State.

The undersigned state, that upon the first consideration of the resolution proposing the call of a Convention, it was decided by a majority of the committee that the resolution should be reported back to the House, with the recommendation that it be rejected. That decision, however, was subsequently reconsidered; and at a subsequent meeting a favorable report was decided upon, but by no large majority—the vote for and against being equal until the chairman gave his vote in favor of a report recommending the resolution. The undersigned state these facts with no other object than that of merely showing to the House that the report of the majority is by no means reflective of the views entertained by a large portion of the committee.

The undersigned are decidedly of the opinion that the call of a Convention, as contemplated by the resolution, is not demanded by the real wants of the people of the State. The Convention, if called, as proposed by the resolution, would doubtless cost the people of the State a large amount of money, and as the undersigned believe, without even the possibility of a corresponding benefit resulting to them.

It has been but little more than seven years since the adoption of our State Constitution; and though it may not possess perfection, yet the undersigned think they hazard nothing in

saying that its practical operations, so far, have been highly creditable to the wisdom of its founders, and pre-eminently conducive to the collective and individual prosperity of the people of the State. Our present State Constitution contains many wise and salutary provisions, such as are rarely, if ever, found in the supreme law of other States. The wise checks in our present Constitution to extravagant and speculative legislation are many; and, as the undersigned believe, cannot be too highly prized nor too tenaciously adhered to.

The framers of our present State Constitution wisely provided a mode for its amendment, at once cheap and summary. The thirty-seventh section of the seventh article, in substance, says: that proposed amendments, by a two-third vote of the Legislature, can be submitted to and directly acted upon by the people, at the ballot-box. A mere majority vote at the ballot-box will throw the proposed amendments before the succeeding Legislature; then if the proposed amendments are approbated by two-thirds of the Legislature, the amendment is engrafted in and forms a part of the Constitution. The undersigned have no hesitancy in saying that this constitutional provision is a wise one, and fully sufficient to remedy defects, if any really exist. And the undersigned cannot willingly consent that the people of the State shall run the risk that will certainly be incurred by the call of a Convention, of having a new Constitution far more defective than the present, when defects can be so quickly remedied by simple existing provisions of the present. All of which is very respectfully submitted.

A. J. HOOD,
C. H. RANDOLPH,
GEO. M. REID,
B. F. NEAL,
E. A. PALMER,
S. A. MAVERICK,
W. C. POLLOCK.

Report received to come up in its order.

The committee on State Affairs have had under consideration a bill granting the use of certain portions of Galveston Bay to the Galveston Dry Dock Company, and have instructed me to report it back to the House, without amendment, and recommend its passage.

WILLIAM FIELDS, Chairman.

Report and bill received to come up in their order.

The committee on Finance, to whom was referred sundry claims, have instructed me to report the accompanying bill,

making appropriations for the purposes therein named, and recommend its passage.

GUY M. BRYAN, Chairman.

Report and bill received to come up in their order.

A message was received from the Senate, informing the House that the Senate had passed a joint resolution providing for the removal of the remains of the late Stephen F. Austin, for interment in the State burial ground at the city of Austin; a bill to incorporate the Texas Orphans' Asylum; a bill to facilitate the operations of persons engaged in the United States Coast Survey, in the State of Texas, under proper restrictions; a bill for the relief of Isaac Mullins; a bill concerning offences committed by negroes; a bill supplementary to an act concerning crimes and punishments; a bill for the relief of Jim Shaw, a Delaware Indian; a bill for the relief of John White; and a bill supplementary to an act to establish the La Salle and El Paso Railroad Company, originating in that body.

The committee on Claims and Accounts, to whom was referred the petition of John E. Dusenberry, praying relief, have had the same under consideration, and have directed me to report the accompanying bill for the relief of the bearer of the remains of the decimated Mier prisoners, and recommend its passage.

J. WREN, Chairman.

Report and bill received to come up in their order.

The committee on Internal Improvements, to whom was referred a bill to be entitled an act to encourage internal improvements in the State of Texas, and a bill providing for the subscription by the counties of the State to the stock of corporations undertaking works of internal improvement, and for the payment and disposal of stock so subscribed, have had the same under consideration, and instruct me to report them back to the House, with a substitute embracing the subject matter of both bills, and recommend the adoption and passage of the substitute.

E. A. PALMER,

One of the committee.

Report and bill received to come up in their order.

The committee to whom was referred the bill creating the Memphis and El Paso and Pacific Railway Company, have had the same under consideration, and in view of the immense benefits that would result from the successful completion of the contemplated road, report the same back to the House and earnestly recommend its passage.

JOSEPH TAYLOR, Chairman.

Report and bill received to come up in their order..

The committee on Internal Improvements, to whom was referred a bill to regulate railroad companies, have examined the same with a great deal of care and interest, and are of opinion the objects proposed to be effected by said bill are of a highly important and desirable character. I am therefore instructed by your committee to report said bill back to the House and earnestly recommend its passage.

Your committee have also directed me to return to the House a bill to be entitled an act to establish the New Orleans, Texas and Pacific Railroad Company, and recommend its passage with the following amendments :

1. In 5th line of 19th section, after the word "Texas," insert, "and office of county clerks and district surveyors, through which said road may run.

2. Add to the 20th section : "That said company shall not have or enjoy the benefit of any act which has or may be passed for the loan of money to railroad companies.

3. Strike out "thirty sections," wherever it occurs in the bill.

JOSEPH TAYLOR, Chairman.

Report and bill received to come up in their order.

The committee on Private Land Claims, No. 1, after having carefully examined, recommend the rejection of the following petitions for relief: the petitions of William Spavin, Mary Jeffries, Charles Tydings, James A. Bradford, P. Jink Mahan, James H. Denson, Capt. G. Clinton Frailey, Alexander Thompson, and P. C. H. Lennon.

R. H. LANE, Chairman.

Report received to come up in its order..

The committee on Private Land Claims, No. 1, after examining, report and recommend the rejection of the petition of sundry citizens of Fisher & Miller's Colony.

R. H. LANE, Chairman.

Report received to come up in its order.

The committee on Private Land Claims, No 1, after a careful examination, report favorably upon a bill concerning patents for land, and the petition of the heirs of Jesse Watson.

R. H. LANE, Chairman.

Report received to come up in its order.

The committee on Private Land Claims, No. 1, after carefully examining, report unfavorably upon the petitions of Thomas Hunt, Josiah Nichols, Lindsey L. Lewis, Hiram Barlow ; a bill appropriating the alternate sections of land in Fisher &

Miller's Colony, for the purposes of education; a bill providing the mode whereby certain persons therein named may bring suit in the district court to establish their rights to land; a bill granting pre-emption privileges to persons who may have settled on public domain; and a bill for the relief of the citizens of the State of Texas.

R. H. LANE, Chairman.

Report received to come up in its order.

The committee on Private Land Claims, No. 2, after examining, report favorably upon the claim of Sylvanus Chamberlain, accompanied with a bill for his relief.

N. B. CHARLTON, Chairman.

Report received to come up in its order.

The committee on Engrossed Bills have examined a bill amending the sixteenth section of an act to provide for the assessment and collection of taxes, approved 11th February, 1850; a bill to amend an act to create the county of Hidalgo; a bill supplementary to an act granting to settlers on public domain pre-emption privileges; a bill supplementary to an act for the relief of certain persons formerly prisoners of war in Mexico; and a bill authorizing the issuing of duplicate land warrants, and find them correctly engrossed.

A. J. HOOD, Chairman.

Report received.

The committee on Enrolled Bills instruct me to report to the House that the following acts: an act supplementary to an act entitled an act to establish and incorporate the Marshall University, and to change the name thereof to Van Zandt College; an act entitled an act re-instating Joseph F. Smith as an attorney and counsellor at law; an act supplementary to an act concerning certain lands in Austin's Second Colony, and the Colony of Austin and Williams, with the signatures of the Speaker and President of the Senate, were, on the 26th inst., presented to His Excellency, the Governor, for his approval.

I am also instructed by said committee to report to the House the act to apportion the Senators and Representatives of the Legislature among the several counties of the State, according to the requirements of the Constitution, as correctly enrolled.

BENJ. F. TANKERSLY, Chairman.

Report accepted.

BILLS AND RESOLUTIONS.

Mr. Patrick introduced a bill to define the time of holding

the district courts in the thirteenth judicial district; read first time.

Mr. Jowers introduced a bill releasing the title of the State of Texas to the lands surveyed by virtue of Peters' Colony to the colonists; read first time.

Mr. Scott introduced a bill relative to special liabilities reported by the Auditor and Comptroller; read first time.

Mr. Thomson introduced a bill to create the county of——; read first time.

On motion, the rule was suspended, bill read second time, and referred to the committee on County Boundaries.

Mr. Hamilton, by leave, presented the petition of several citizens of Williamson county, praying a change in the boundary line between that county and Travis; referred to the committee on County Boundaries.

Mr. Hamilton, by leave, presented the petition of E. S. C. Robertson, praying relief; referred to the committee on Private Land Claims, No. 2.

Mr. McDade introduced a bill to give certain civil and criminal jurisdiction to the mayor of the town of Washington; read first time.

On motion, rule suspended, bill read second time, and referred to the Judiciary committee.

On motion of Mr. Charlton, the rule was suspended, and a bill supplementary to an act to establish the La Salle and El Paso Railway Company, was taken up and read first time.

On motion, the rule was suspended, bill read second time and referred to the committee on Internal Improvements.

On motion of Mr. Stapp, the rule was suspended, and a bill to incorporate the Victoria and Indianola Plank Road and Turnpike Company, was taken up, read second time and referred to the committee on Internal Improvements.

On motion of Mr. Hord, the rule was suspended, and a bill to amend an act to create the counties of Cameron, Hidalgo, Starr, Webb, Presidio and El Paso into separate land districts, approved February 16, 1852, was taken up; read second time and referred to the committee on County Boundaries.

The Speaker now announced to the House the bill to appropriate, set apart and invest two millions of dollars as a special school fund, it having been set apart as the special order for this hour, which was read.

When Mr. Taylor of Harrison proposed the following amendment:

Strike out, in the third line of fifth section, the words "forty miles," and insert "twenty miles."

Mr. Reid moved to amend the amendment by inserting "twenty-five" in lieu of "twenty;" lost.

Mr. Taylor of Fannin proposed for the amendment:

Strike out "forty," and insert "thirty-five;" lost.

Mr. Pollock moved to lay the amendment upon the table, upon which the yeas and nays were taken and stood thus:

YEAS—Messrs. Speaker, Andrews, Bryan of B., Bryan of C., Cannon, Charlton, Coles, Crabb, Crockett, Doom, Dunlap, Edwards, Evans of B., Evans of P., Fields, Hamilton, Hardeman of N., Hooker, Jowers, Lane, Mabry, McDade, McFarland, Neal, Neighbors, Palmer, Patrick, Pollock, Rains, Randolph, Runnels, Scott, Sims, Speights, Tankersly, Taylor of F., Thomson, Turner, White and Wren—39.

NAYS—Messrs. Bee, Browder, Camp, Daggett, Dunlap, Evans of A., Flanagan, Hartley, A. J. Hood, Hord, Lawson, Maverick, Reid, Rowe, Stapp, Tarver, Taylor of H., and Throckmorton—18.

So the amendment was laid upon the table.

Mr. Scott moved to strike out "excluded" in third line third section, and insert "included;" lost.

Mr. Runnels moved that the bill under consideration be referred to the committee on Internal Improvements, with instructions to report at the earliest practicable period an equitable measure for the distribution of the fund set apart by said bill, amongst the several counties of this State, the avails of said fund to be appropriable to purposes of internal improvements by vote of the people of said counties, or such other purposes as may be directed by law.

Mr. Evans of Bexar moved to lay the motion upon the table.

Mr. Johnson moved that the House adjourn until 3 o'clock, P. M.; lost.

The yeas and nays were then taken on the motion of Mr. Evans of Bexar to lay upon the table, and stood thus:

YEAS—Messrs. Speaker, Bee, Bryan of C., Browder, Cannon, Coles, Daggett, Edwards, Evans of B., Evans of A., Evans of P., Flanagan, Hartley, Hardeman of C., Jowers, Lane, Mabry, Maverick, McDade, McFarland, Neighbors, Palmer, Pollock, Rains, Randolph, Reid, Scott, Speights, Stapp, Tankersly, Taylor of F., Thomson, Throckmorton and Turner—34.

NAYS—Messrs. Andrews, Bryan of B., Camp, Crabb, Crockett, Doom, Dunlap, Fields, Hamilton, Hardeman of N., A. J. Hood, Hooker, Johnson, Lawson, Neal, Patrick, Rowe, Runnels, Sims, Tarver, Taylor of H., White and Wren—23.

So the motion was laid upon the table.

Mr. Hamilton proposed the following amendment:

Strike out the caption, and insert: "A bill to be entitled an act to evade the 8th and 24th sections of the general provisions of the State Constitution."

Pending this amendment, on motion, the House adjourned until 3 o'clock, P. M.

THREE O'CLOCK, P. M.

House met—roll called—quorum present.

A bill to appropriate, set apart and invest two millions of dollars as a special school fund, not having been disposed of when the House adjourned, was again taken under consideration.

Mr. Hamilton's amendment under consideration.

After some discussion had thereon, Mr. Tankersly offered a substitute therefor, as follows:

A bill to be entitled an act to appropriate two millions of dollars for internal improvements within this State.

Strike out the second section after "bill," and substitute therefor:

"That the Comptroller of the State shall, upon the evidence being produced to him hereinafter provided for, pay over to any railroad company such amount of the bonds of the United States to which such company may be entitled under the provisions of this act."

After some time spent in discussing the amendments, Mr. Hartley moved that they be laid upon the table, upon which the yeas and nays were taken and stood thus:

YEAS—Messrs. Speaker, Bryan of B., Bryan of C., Camp, Cannon, Charlton, Crabb, Daggett, Edwards, Evans of B., Evans of A., Evans of P., Flanagan, Hartley, Hardeman of C., A. J. Hood, Jowers, Lane, Lawson, Mabry, Maverick, McDade, McFarland, Neighbors, Palmer, Patrick, Pollock, Rains, Randolph, Reid, Rowe, Speights, Stapp, Taylor of H., Thomson, Throckmorton, Turner and White—38.

NAYS—Messrs. Andrews, Crockett, Doom, Fields, Hamilton, Hardeman of N., Hooker, Hord, Neal, Runnels, Sims, Tankersly, Tarver, Taylor of F. and Wren—15.

So the amendments were laid upon the table.

Mr. Hartley then proposed a substitute for the bill.

Mr. Cannon proposed a substitute for the bill and substitute of Mr. Hartley.

On motion of Mr. Tankersly, the bill and substitutes offered

by Messrs. Hartley and Cannon, were re-referred to the committee on Internal Improvements.

On motion of Mr. Hamilton, the amendment proposed by Mr. Runnels to-day to the bill, and laid upon the table, was taken up, and also referred with the bill.

Mr. Browder, on leave granted, introduced a bill for the relief of the heirs of Augustus Cook; read first time.

Mr. Throckmorton, on leave granted, introduced a bill for the relief of the heirs of L. Gilbert; read first time, and

On motion, rule suspended, bill read second time and referred to the committee on Finance.

The committee on Enrolled Bills instruct me to report to the House that the act to apportion the Senators and Representatives of the Legislature among the several counties of the State, according to the requirements of the Constitution, with the signatures of the Speaker of the House of Representatives and President of the Senate was, on this day, presented to His Excellency, the Governor, for his approval.

I am also instructed to report to the House that said committee have examined an act to create the county of Madison, and find the same correctly enrolled.

BENJ. F. TANKERSLY, Chairman.

After which, on motion, the House adjourned until half-past 9 o'clock A. M., to-morrow.

AUSTIN, Friday, January 28, 1853.

House met pursuant to adjournment—roll called—quorum present.

Absentees—Messrs. Andrews, Browder, Daggett, Doom, Howard, Johnson, Jowers, Lane, Lawson, Lott, Reid, Sims, Speights, Stapp, Tarrant, Titus and Westmoreland.

Journal of yesterday read and adopted.

PETITIONS.

Mr. Taylor of Fannin presented the petition of sundry citizens of the town of Preston, praying the incorporation of said town; referred to the committee on County Boundaries.

Mr. Andrews presented the petition of Temple O. Harris, praying relief; referred to the committee on Public Debt.

The petition of Jacob L. Briggs, praying relief; referred to the committee on Public Lands.

The petition of sundry citizens of Galveston and Liberty